

# SENATE JOURNAL

OF THE

## IDAHO LEGISLATURE

FIRST REGULAR SESSION  
FIFTY-SEVENTH LEGISLATURE

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**TWENTY-SIXTH LEGISLATIVE DAY**  
**FRIDAY, JANUARY 31, 2003**

Senate Chamber

President Risch called the Senate to order at 11:15 a.m.

Roll call showed all members present except Senator Calabretta, absent and formally excused by the Chair; President Pro Tempore Geddes, and Senators Malepeai, Noh, Schroeder, Stegner, and Stennett, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Audrey Twiggs, Page.

The Senate advanced to the Third Order of Business.

### Reading and Correction of the Journal

Senators Malepeai, Stegner, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of January 30, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

### Reports of Standing Committees

Senator Noh was recorded present at this order of business.

January 31, 2003

The JUDICIARY AND RULES Committee reports that **S 1046** has been correctly printed.

DARRINGTON, Chairman

**S 1046** was referred to the State Affairs Committee.

January 30, 2003

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1026**, **H 31**, and **H 53** with the recommendation that they do pass.

ANDREASON, Chairman

**S 1026**, **H 31**, and **H 53** were filed for second reading.

January 30, 2003

The TRANSPORTATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Scott Patrick, to the Idaho Aeronautics Advisory Board, term to expire January 13, 2007.

INGRAM, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

### Messages from the Governor

President Pro Tempore Geddes was recorded present at this order of business.

January 29, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Trent Clark of Soda Springs, Idaho, was appointed as a member of the Idaho State Building Authority to serve a term commencing January 1, 2003, and expiring January 1, 2008.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the State Affairs Committee.

January 29, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Jerry R. Rigby of Rexburg, Idaho, was appointed as a member of the Idaho Water Resource Board to serve a term commencing January 1, 2003, and expiring January 1, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

January 30, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Robert Graham of Bonners Ferry, Idaho, was appointed as a member of the Idaho Water Resources Board to serve a term commencing January 1, 2003, and expiring January 1, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

January 30, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Richard T. Roberge of Caldwell, Idaho, was appointed as a member of the Idaho State

Board of Health and Welfare to serve a term commencing January 7, 2003, and expiring January 7, 2007.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Health and Welfare Committee.

January 30, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Lisa M. Godwin of Orofino, Idaho, was appointed as a member of the Idaho Board of Tax Appeals to serve a term commencing January 17, 2003, and expiring June 30, 2005.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Local Government and Taxation Committee.

January 28, 2003

The Honorable James E. Risch  
President of the Senate  
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that Jim Kempton of Boise, Idaho, was appointed as a member of the Pacific Northwest Electric Power and Conservation Planning Council to serve a term commencing January 15, 2003, and expiring January 15, 2006.

This appointment was made subject to confirmation by the Senate. Notice of appointment is hereby given.

Sincerely,  
/s/ Dirk Kempthorne  
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

The Gubernatorial appointment was referred to the Resources and Environment Committee.

The Senate advanced to the Ninth Order of Business.

### **Messages from the House**

Senator Schroeder was recorded present at this order of business.

January 30, 2003

Mr. President:

I transmit herewith **H 84, H 85, H 50, H 86, and H 67**, and I return herewith **S 1014**, which have passed the House.

JUKER, Chief Clerk

**H 84, H 85, H 50, H 86, and H 67** were filed for first reading.

**S 1014** was referred to the Judiciary and Rules Committee for enrolling.

The Senate advanced to the Tenth Order of Business.

### **Motions and Resolutions**

The President announced that **SJM 101** was before the Senate for final consideration.

On request by Senator Goedde, granted by unanimous consent, **SJM 101** retained its place on the calendar for Tuesday, February 4, 2003.

The Senate advanced to the Eleventh Order of Business.

### **Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials**

#### **S 1047**

#### **BY COMMERCE AND HUMAN RESOURCES COMMITTEE**

#### **AN ACT**

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2003, IDAHO CODE, TO PROVIDE DESCRIPTIVE LANGUAGE AND TO REQUIRE ACTIVE LICENSEES WHO SELL, LIST, BUY OR NEGOTIATE OR OFFER TO SELL, LIST, BUY OR NEGOTIATE THE PURCHASE OR SALE OF A MOBILE HOME, MANUFACTURED HOME OR FLOATING HOME ON BEHALF OF ANOTHER FOR COMPENSATION OR THE PROMISE OR EXPECTATION OF COMPENSATION SHALL COMPLY WITH IDAHO REAL ESTATE LICENSE LAW REGARDLESS OF WHETHER THE ACTIVITY WOULD OTHERWISE REQUIRE AN IDAHO REAL ESTATE LICENSE; AMENDING SECTION 54-2013, IDAHO CODE, TO PROVIDE THAT LICENSEES SEEKING TO OBTAIN OR RENEW ACTIVE LICENSES SHALL CERTIFY COMPLIANCE WITH

INSURANCE REQUIREMENTS, TO PROVIDE THAT LICENSEES NOT PARTICIPATING IN THE COMMISSION'S INSURANCE PROGRAM SHALL OBTAIN A CERTIFICATE OF COVERAGE AND TO REQUIRE THE PRODUCTION OF THE CERTIFICATE FOR INSPECTION UPON REQUEST; AMENDING SECTION 54-2018, IDAHO CODE, TO PROVIDE THAT FEES ARE NONREFUNDABLE AFTER A LICENSE OR LICENSE CHANGE HAS BECOME EFFECTIVE; AMENDING SECTION 54-2023, IDAHO CODE, TO REVISE CONTINUING EDUCATION REQUIREMENTS RELATING TO DUPLICATE CREDIT; AMENDING SECTION 54-2035, IDAHO CODE, TO DELETE LANGUAGE RELATING TO CERTIFICATION MAINTENANCE REQUIREMENTS AND TO REVISE RECERTIFICATION REQUIREMENTS; AMENDING SECTION 54-2054, IDAHO CODE, TO CLARIFY THAT THE PAYMENT OF COMMISSIONS, FEES OR COMPENSATION BY A BROKER TO A LEGAL BUSINESS ENTITY WHOSE SHAREHOLDERS, MEMBERS OR OTHER PERSONS HAVING SIMILAR OWNERSHIP INTEREST ARE ALL ACTIVE REAL ESTATE LICENSEES IS NOT PROHIBITED AND TO PROVIDE THAT SALES ASSOCIATES MAY PAY COMMISSIONS, COMPENSATION OR FEES TO OTHER SALES ASSOCIATES LICENSED WITH THE SAME BROKER IF AUTHORIZED BY THE BROKER; AND AMENDING SECTION 54-2055, IDAHO CODE, TO CLARIFY THAT ACTIVE LICENSEES MUST CONDUCT CERTAIN TRANSACTIONS THROUGH THE BROKER WITH WHOM THEY ARE LICENSED.

#### **S 1048**

#### **BY COMMERCE AND HUMAN RESOURCES COMMITTEE**

#### **AN ACT**

RELATING TO IDAHO REAL ESTATE LICENSE LAW; AMENDING SECTION 54-2012, IDAHO CODE, TO REVISE MINIMUM REQUIREMENTS FOR INDIVIDUAL PRIMARY IDAHO LICENSES; AMENDING SECTIONS 54-2015, 54-2017 AND 54-2026, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS; AND AMENDING SECTION 54-2033, IDAHO CODE, TO PROVIDE CORRECT CODE CITATIONS AND TO MAKE A TECHNICAL CORRECTION.

#### **S 1049**

#### **BY COMMERCE AND HUMAN RESOURCES COMMITTEE**

#### **AN ACT**

RELATING TO THE IDAHO EMPLOYER ALCOHOL AND DRUG-FREE WORKPLACE ACT; AMENDING THE HEADING FOR CHAPTER 17, TITLE 72, IDAHO CODE; AMENDING SECTION 72-1701, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1702, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS, TO PROVIDE THAT IT IS LAWFUL TO CONDUCT DRUG OR ALCOHOL TESTING OF EMPLOYEES AND PROSPECTIVE EMPLOYEES UNDER CERTAIN CONDITIONS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTIONS 72-1703, 72-1704, 72-1705 AND 72-1706, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1707, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO PROVIDE CORRECT

TERMINOLOGY; AMENDING SECTION 72-1708, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO RESTRICT APPLICATION OF THE SECTION; AMENDING SECTIONS 72-1710 AND 72-1711, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 72-1712, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 72-1714, IDAHO CODE, TO REMOVE LANGUAGE REFERENCING ONLY PRIVATE EMPLOYERS; AMENDING SECTION 72-1715, IDAHO CODE, TO LIMIT APPLICATION OF THE SECTION; AND AMENDING SECTION 72-1716, IDAHO CODE, TO PROVIDE THAT THE STATE OF IDAHO OR ANY POLITICAL SUBDIVISION OF THE STATE THAT CONDUCTS DRUG AND ALCOHOL TESTING OF ALL EMPLOYEES AND PROSPECTIVE EMPLOYEES FOR WHOM SUCH TESTING IS NOT CONSTITUTIONALLY PROHIBITED SHALL QUALIFY FOR AND MAY BE GRANTED THE EMPLOYER PREMIUM REDUCTION.

**S 1050**

**BY COMMERCE AND HUMAN RESOURCES  
COMMITTEE**

**AN ACT**

RELATING TO DEATH BENEFITS; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1361A, IDAHO CODE, TO PROVIDE DEATH BENEFITS FOR PUBLIC SAFETY OFFICERS WHO DIE AS THE DIRECT AND PROXIMATE RESULT OF PERSONAL INJURIES SUSTAINED IN THE LINE OF DUTY; AND AMENDING SECTION 67-2028, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY, TO MAKE GRAMMATICAL CHANGES, TO PROVIDE THAT THE ISSUANCE OF A DEFICIENCY WARRANT SHALL BE AUTHORIZED AFTER THE BOARD OF EXAMINERS DETERMINES THAT CERTAIN REQUIREMENTS HAVE BEEN MET, TO REVISE THE METHOD OF BENEFIT PAYMENTS TO DEPENDENT CHILDREN, TO REMOVE LANGUAGE PROVIDING FOR BENEFITS TO PARENTS OF OFFICERS, TO REMOVE LANGUAGE REFERENCING THE EFFECT OF OTHER DEATH BENEFIT PAYMENTS, TO PROVIDE THAT DEATH BENEFITS ARE NOT DEPENDENT ON THE YEARS OF SERVICE OR AGE OF THE OFFICER, TO DEFINE "PUBLIC SAFETY OFFICER," TO PROVIDE THAT BENEFITS SHALL BE PAYABLE ONLY UPON CERTAIN DETERMINATIONS BY THE BOARD OF EXAMINERS AND TO LIMIT APPLICATION; REPEALING SECTION 67-2028, IDAHO CODE; AND PROVIDING EFFECTIVE DATES.

**S 1051**

**BY COMMERCE AND HUMAN RESOURCES  
COMMITTEE**

**AN ACT**

RELATING TO INSURANCE CONTRACTS; AMENDING CHAPTER 18, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-1845, IDAHO CODE, TO SPECIFY UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

**S 1052**

**BY TRANSPORTATION COMMITTEE  
AN ACT**

RELATING TO SPECIAL MOTOR VEHICLE LICENSE PLATES; AMENDING CHAPTER 4, TITLE 49, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 49-420G, IDAHO CODE, TO ESTABLISH AN IDAHO BOY SCOUT LICENSE PLATE PROGRAM; AMENDING SECTION 49-402, IDAHO CODE, TO PROVIDE CORRECT REFERENCES AND TO PROVIDE A REFERENCE TO FEES FOR THE IDAHO BOY SCOUT LICENSE PLATE; AND PROVIDING AN EFFECTIVE DATE.

**S 1053**

**BY TRANSPORTATION COMMITTEE  
AN ACT**

RELATING TO SIZE OF VEHICLES AND LOADS; AMENDING SECTION 49-1010, IDAHO CODE, TO INCREASE THE MAXIMUM LENGTH OF VEHICLE COMBINATIONS NOT IN EXCESS OF FOUR VEHICLE UNITS IN CERTAIN INSTANCES.

**S 1054**

**BY TRANSPORTATION COMMITTEE  
AN ACT**

RELATING TO HIGHWAYS AND BRIDGES; AMENDING SECTION 40-106, IDAHO CODE, TO REVISE THE DEFINITION OF "EXPENDITURE."

**S 1055**

**BY TRANSPORTATION COMMITTEE  
AN ACT**

RELATING TO HIGHWAY DISTRICTS; AMENDING SECTION 31-808, IDAHO CODE, TO DELETE REQUIREMENT OF HIGHWAY DISTRICTS TO DISPOSE OF REAL OR PERSONAL PROPERTY VALUED AT OVER FIVE THOUSAND DOLLARS IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION OF LAW; AMENDING SECTION 40-1308, IDAHO CODE, TO AUTHORIZE HIGHWAY DISTRICTS TO PAY FOR EMERGENCIES OR CALAMITIES IN ACCORDANCE WITH EXISTING HIGHWAY DISTRICT LAW AND TO DELETE REFERENCE TO PAYMENT OF JUDGMENTS AND LIABILITIES IN ACCORDANCE WITH THE LAW FOR TORT CLAIMS AGAINST GOVERNMENTAL ENTITIES; AMENDING SECTION 40-1309, IDAHO CODE, TO CLARIFY CORPORATE POWERS OF HIGHWAY DISTRICTS WITH REGARD TO DISPOSAL OF REAL OR PERSONAL PROPERTY EXCEEDING FIVE THOUSAND DOLLARS IN VALUE AND TO PROVIDE THAT NO EMPLOYEES OF A HIGHWAY DISTRICT OR FAMILIES OF HIGHWAY DISTRICT COMMISSIONERS, DIRECTORS OR EMPLOYEES MAY BE PERSONALLY INTERESTED IN HIGHWAY DISTRICT PURCHASES OR CONTRACTS; AMENDING SECTION 40-1310, IDAHO CODE, TO PROVIDE ADDITIONAL POWERS AND DUTIES OF HIGHWAY DISTRICT COMMISSIONERS REGARDING PURCHASE OF EQUIPMENT AT PUBLIC AUCTION; AMENDING SECTION 40-1314, IDAHO CODE, TO PROVIDE FOR PUBLICATION OF PROPOSED COMMISSIONER SALARIES AS A SEPARATE LINE ITEM IN THE ANNUAL BUDGET AND TO PROVIDE CORRECT TERMINOLOGY; AND AMENDING SECTIONS 40-1404 AND 40-1404A, IDAHO CODE, TO PROVIDE FOR COMPENSATION OF HIGHWAY DISTRICT AND COUNTYWIDE HIGHWAY DISTRICT COMMISSIONERS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 40-1314, IDAHO CODE.

**S 1047, S 1048, S 1049, S 1050, S 1051, S 1052, S 1053, S 1054, and S 1055** were introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

**H 84 and H 86**, by State Affairs Committee, were introduced, read the first time at length, and referred to the State Affairs Committee.

**H 85**, by State Affairs Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

**H 50**, by Mr. Speaker, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

**H 67**, by Mr. Speaker, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

The Senate advanced to the Twelfth Order of Business.

### Second Reading of Bills

**S 1019 and S 1028**, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

**H 87**, by Appropriations Committee, was read the second time at length and filed for third reading.

**H 68 and H 69**, by Mr. Speaker, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

### Third Reading of Bills

The President announced that **H 75**, having previously been read the third time at length and debate having previously been opened, was before the Senate for final consideration. Senator Compton arose as sponsor of the bill and reopened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the President declared **H 75** passed, title was approved, and the bill ordered returned to the House.

**H 79** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator McKenzie arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the President declared **H 79** passed, title was approved, and the bill ordered returned to the House.

**H 80** was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Werk arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Calabretta. Total - 1.

Total - 35.

Whereupon the President declared **H 80** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

### Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 11:55 a.m. until the hour of 11:15 a.m., Monday, February 3, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary